

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

STEVE ATTILA CZINEGE,

Defendant.

No. CR06-109P

ORDER ON DEFENDANT'S  
MOTION IN LIMINE FOR AN  
ORDER DECLARING THE LAW  
APPLICABLE TO, AND  
PERMITTING PROOF SUPPORTING,  
HIS DEFENSE OF COERCION AND  
DURESS

This matter comes before the Court on Defendant's motion in limine for an order declaring the law applicable to, and permitting proof supporting, his defense of coercion and duress. (Dkt. No. 47). In his opening brief, Defendant argued that Canadian law should supply the standard by which his defense of coercion and duress is evaluated. In a supplemental memorandum, Defendant argues that if the Court finds that the more stringent law of the United States applies, Defendant should still be permitted to present testimony on the defense of duress. (Dkt. No. 52).

Having reviewed the papers and pleadings submitted by the parties, the Court GRANTS in part and DENIES in part Defendant's motion. The Court finds and ORDERS as follows:

(1) The Court DENIES Defendant's motion to the extent he seeks an order providing that the admissibility of testimony relevant to his defense of coercion and duress should be determined by reference to the law of Canada. While Defendant's argument is creative, Defendant cites no

1 persuasive authority for the proposition that the law of Canada should be applied in this criminal  
2 proceeding.

3 (2) The Court GRANTS Defendant's motion to the extent that he seeks to leave to offer  
4 evidence regarding a duress defense under the law of the United States. There are three elements to a  
5 duress defense: (1) an immediate threat of death or serious bodily injury; (2) a well-grounded fear that  
6 the threat will be carried out; and (3) no reasonable opportunity to escape the threatened harm.  
7 United States v. Contento-Pachon, 723 F.2d 691, 693 (9th Cir. 1984). The Ninth Circuit has noted  
8 that "[f]actfinding is usually a function of the jury, and the trial court rarely rules on a defense as a  
9 matter of law." Id. At the same time, "[i]f the evidence is insufficient as a matter of law to support a  
10 duress defense . . . the trial court should exclude that evidence." Id. Here, the Court finds that  
11 Defendant has made a sufficient offer of proof to permit him to present evidence regarding the duress  
12 defense.

13 (3) The Clerk is directed to send copies of this order to all counsel of record.

14 Dated: October 31, 2006

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16 s/Marsha J. Pechman  
17 Marsha J. Pechman  
18 United States District Judge  
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